

Appl. No. 10/737,365  
Amdt. Dated March 8, 2005  
Reply to Office Action of 12/08/2005

Docket No. CM01121S  
Customer No. 22917

### REMARKS/ARGUMENTS

Applicants have amended Claims 1, 8-9, 13, 16, 18 and 21-23. No new matter was added by these amendments. Claims 1-23 remain in this application. Applicants request reconsideration of this application in view of the above amendments and these remarks and arguments.

Applicants first acknowledge that the Examiner has objected to Claims 9-15 and 21 as being dependent upon a rejected base claim, but states that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have amended Claim 1 to include limitations to further clarify the distinctions between the embodiment of the invention as recited in Claim 1 and the cited art, which Applicants believe place this claim in a condition for allowance. Applicants submit that Claims 9-15 and 21 are likewise in a condition for allowance by virtue of their dependence upon amended Claim 1.

The Examiner has objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) because they include a reference number "37" in figures 2 and 3 that is not mentioned in the specification. Applicants have accordingly amended the specification to refer to the reference number "37" included in both FIG. 2 and FIG. 3 and, therefore, request that the Examiner remove the objections to the drawings.

The Examiner has rejected Claims 1-7, 16-19, 22 and 23 under 35 USC 102(b) as being anticipated by Bard (US 5,610,387). Applicants traverse these rejections.

As expressed in the present specification, one of the named (but not exclusive) benefits/advantages of the claimed invention is that "in contrast to the prior art, the user does not have to adjust the illuminating device to ensure that the region of the target which is illuminated is within the field of view of the reader device. This adjustment is beneficially undertaken automatically by signals from the detection means controlling and adjustment of the illuminating means" (emphasis added). This feature, of the illuminating means/apparatus automatically adjusting the illumination provided by the illuminating device, is reflected in the amended independent Claims 1, 22 and 23 and, thereby, included by dependency in all of the dependent claims.

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More specifically, Claim 1 now reads "adjustment means included in the illuminating device for automatically adjusting the illumination provided by the illumination device in response to a signal provided by the detector means to the adjustment means so that a region on the target illuminated by the illuminating means is readable by the reader device." Claim 22 now reads "automatically adjusting, by an adjustment means included in the illuminating device, the illumination provided by the illuminating device in response to a signal provided by the detector means to the adjustment means so that a region on the target illuminated by the illuminating means is readable by the reader device." Claim 23 now reads "apparatus comprising: . . . detector means . . . ; and adjustment means". These amendments as recited in Claims 1, 22 and 23 accordingly distinguish the embodiments of the present invention from what is disclosed in the Bard reference. As admitted by the Examiner, the adjustment means disclosed in the Bard reference consists of manual adjustment of a light emitter by a user, which is merely Applicants' admitted prior art.

For these reasons, Applicants believe that the Bard reference does not anticipate Claims 1-7, 16-19, 22 and 23, and request that the Examiner remove the rejections of these claims based on the Bard reference.

The Examiner has rejected Claim 8 under 35 USC 103(a) as being unpatentable over Bard. Applicants traverse this rejection. Based on the above argument, Bard fails to teach all of the limitations recited in Claim 1 and included by dependency in Claim 8 and therefore does not render Claim 8 obvious. Applicants therefore ask that the Examiner remove the rejection of Claim 8 based on the Bard reference.

The Examiner has rejected Claim 20 under 35 USC 103(a) as being unpatentable over Bard in view of Ackley (US 6,155,490). Applicants traverse this rejection. Based on the above argument, Bard fails to teach all of the limitations recited in Claim 1 and included by dependency in Claim 20. Ackley at a minimum also fails to teach the above-quoted limitations recited in Claim 1. Therefore, the combined teachings of Bard and Ackley do not render Claim 20 obvious, and Applicants request that the Examiner remove the rejection to this claim based on these references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

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In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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